

As Reported by the House Government Oversight Committee

134th General Assembly

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Am. Sub. S. B. No. 185

Senator Schaffer

Cosponsors: Senators Johnson, Brenner, Rulli, Lang, Antani, Kunze, Peterson, O'Brien, Romanchuk, Roegner, Hottinger, Hoagland, Blessing, Cirino, Gavarone, McColley, Wilson Representatives Wilkin, Swearingen

A BILL

To amend section 3761.16 and to enact section 1
5502.411 of the Revised Code regarding a 2
political subdivision's emergency powers when 3
suppressing a riot, mob, or potential riot or 4
mob and the preservation of rights regarding 5
deadly weapons and firearms during an emergency. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3761.16 be amended and section 7
5502.411 of the Revised Code be enacted to read as follows: 8

Sec. 3761.16. The chief administrative officer of a 9
political subdivision with police powers, when engaged in 10
suppressing a riot or a mob or when there is a clear and present 11
danger of a riot or a mob, may cordon off any area or areas 12
threatened by the riot or the mob and prohibit persons from 13
entering the cordoned off area or areas except when carrying on 14
necessary and legitimate pursuits and may prohibit the sale, 15
offering for sale, dispensing, or transportation of ~~firearms or~~ 16
~~other dangerous weapons, ammunition, dynamite, or other~~ 17

dangerous explosives in, to, or from the cordoned off areas. 18

Sec. 5502.411. (A) As used in this section: 19

(1) "Ammunition" has the same meaning as in section 20
2305.401 of the Revised Code. 21

(2) "Concealed handgun license," "deadly weapon," 22
"firearm," and "valid concealed handgun license" have the same 23
meanings as in section 2923.11 of the Revised Code. 24

(3) "Licensee" has the same meaning as in section 2923.124 25
of the Revised Code. 26

(B) The transport, storage, sale, transfer, commerce in, 27
import and export of, distribution, repair, maintenance, and 28
manufacture of deadly weapons or firearms, ammunition, and 29
accessories and components related to deadly weapons or 30
firearms, shooting ranges, and other goods and services directly 31
related to lawful deadly weapon or firearm possession, use, 32
storage, repair, maintenance, sale, transfer, and training in 33
the use of deadly weapons or firearms, are declared to be life- 34
sustaining "essential" businesses and services for the purposes 35
of safety and security in times of declared emergency or any 36
other statutorily authorized response to any disaster, war, act 37
of terrorism, riot, civil disorder, public health crisis, public 38
nuisance, or emergency of whatever kind or nature. 39

(C) Except as provided in this section, no state agency, 40
political subdivision, elected or appointed official or employee 41
of this state or any political subdivision, or agent of this 42
state or of any political subdivision, board, commission, 43
bureau, or other public body established by law may, under any 44
governmental authority or color of law exercised as part of any 45
statutorily authorized response to any disaster, war, act of 46

terrorism, riot, civil disorder, public health crisis, public 47
nuisance, or emergency of whatever kind or nature, do any of the 48
following: 49

(1) Prohibit, regulate, or curtail the otherwise lawful 50
possession, carrying, display, sale, transportation, transfer, 51
defensive use, or other lawful use of any of the following: 52

(a) Any firearm, including any component or accessory of a 53
firearm; 54

(b) Any ammunition, including any component or accessory 55
of ammunition; 56

(c) Any ammunition-reloading equipment, component, or 57
supplies; 58

(d) Any deadly weapon, including any component or 59
accessory of a deadly weapon. 60

(2) Require registration of deadly weapon or firearm 61
owners, of any firearms, including any component or accessory of 62
a firearm, of any ammunition, including any component or 63
accessory of ammunition, or of any deadly weapon, including any 64
component or accessory of a deadly weapon; 65

(3) Seize, commandeer, or confiscate in any manner, any of 66
the following items that are possessed, carried, displayed, 67
sold, transferred, transported, stored, or used in connection 68
with otherwise lawful conduct: 69

(a) Any firearm, including any component or accessory of a 70
firearm; 71

(b) Any ammunition, including any component or accessory 72
of ammunition; 73

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| <u>(c) Any ammunition-reloading equipment, component, or</u> | 74 |
| <u>supplies;</u> | 75 |
| <u>(d) Any deadly weapon, including any component or</u> | 76 |
| <u>accessory of a deadly weapon.</u> | 77 |
| <u>(4) Suspend or revoke a valid concealed handgun license,</u> | 78 |
| <u>except as expressly authorized in Chapter 2923. of the Revised</u> | 79 |
| <u>Code;</u> | 80 |
| <u>(5) Refuse to accept or process an application for a</u> | 81 |
| <u>concealed handgun license or for renewal of a concealed handgun</u> | 82 |
| <u>license, provided the application for the license has been</u> | 83 |
| <u>properly completed and submitted in accordance with section</u> | 84 |
| <u>2923.125 or 2923.1213 of the Revised Code and the application</u> | 85 |
| <u>for the renewal has been properly completed and submitted in</u> | 86 |
| <u>accordance with section 2923.125 of the Revised Code;</u> | 87 |
| <u>(6) Prohibit, suspend, or limit the business operations of</u> | 88 |
| <u>any entity engaged in the lawful selling or servicing of any</u> | 89 |
| <u>firearms or ammunition, including any components or accessories</u> | 90 |
| <u>of firearms or ammunition, any ammunition-reloading equipment,</u> | 91 |
| <u>component, or supplies, or any deadly weapons, including any</u> | 92 |
| <u>component or accessory of deadly weapons;</u> | 93 |
| <u>(7) Prohibit, suspend, or limit the business operations of</u> | 94 |
| <u>any indoor or outdoor shooting range, whether located on state</u> | 95 |
| <u>lands or on land other than state lands, or of any entity</u> | 96 |
| <u>engaged in providing deadly weapon or firearms safety, deadly</u> | 97 |
| <u>weapon or firearms training, firearms license qualification or</u> | 98 |
| <u>requalification, firearms safety instructor courses, or any</u> | 99 |
| <u>similar class, course, or program;</u> | 100 |
| <u>(8) Place restrictions or quantity limitations on any</u> | 101 |
| <u>entity regarding the lawful sale or servicing of any of the</u> | 102 |

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| <u>following:</u> | 103 |
| <u>(a) Any firearm, including any component or accessory of a</u> | 104 |
| <u>firearm;</u> | 105 |
| <u>(b) Any ammunition, including any component or accessory</u> | 106 |
| <u>of ammunition;</u> | 107 |
| <u>(c) Any ammunition-reloading equipment, component, or</u> | 108 |
| <u>supplies;</u> | 109 |
| <u>(d) Any deadly weapon, including any component or</u> | 110 |
| <u>accessory of a deadly weapon.</u> | 111 |
| <u>(9) Suspend, restrict, or prohibit otherwise lawful</u> | 112 |
| <u>hunting, fishing, or trapping activities or business entities</u> | 113 |
| <u>conducting or directly facilitating lawful hunting, trapping, or</u> | 114 |
| <u>fishing activities, whether conducted on state lands and waters</u> | 115 |
| <u>or on land and waters other than state lands and waters.</u> | 116 |
| <u>(D) (1) If a concealed handgun license has been issued to a</u> | 117 |
| <u>licensee under either section 2923.125 or 2923.1213 of the</u> | 118 |
| <u>Revised Code, if the governor issues an executive order</u> | 119 |
| <u>declaring an emergency, and if the date that the valid and</u> | 120 |
| <u>existing license would or is scheduled to expire falls within</u> | 121 |
| <u>the period of emergency declared by the governor's executive</u> | 122 |
| <u>order or the thirty days immediately preceding the date of that</u> | 123 |
| <u>declaration, then, notwithstanding the date of scheduled</u> | 124 |
| <u>expiration, the license is automatically extended throughout the</u> | 125 |
| <u>duration of the period of the emergency plus an additional</u> | 126 |
| <u>ninety days. If, during the period of the emergency or during</u> | 127 |
| <u>the additional ninety days, a licensee issued a license under</u> | 128 |
| <u>section 2923.125 of the Revised Code submits an application for</u> | 129 |
| <u>renewal of the license or schedules an appointment with the</u> | 130 |
| <u>issuing authority or another authority authorized to renew the</u> | 131 |

license, the license is further automatically extended until the 132
renewal application is accepted and fully processed. 133

(2) If division (D)(1) of this section applies with 134
respect to a concealed handgun license, during the extension 135
period described in that division that is applicable to that 136
license, all of the following apply: 137

(a) The license shall be valid for all purposes under the 138
laws of this state and the person to whom the license was issued 139
shall be considered for all purposes under the laws of this 140
state to be the holder of a valid license to carry a concealed 141
handgun, and the license shall be valid for all purposes under 142
section 2923.128 of the Revised Code; 143

(b) The license remains subject to the operation of 144
section 2923.128 of the Revised Code during the extended period 145
of the license and at any other time; 146

(c) Except for the date of scheduled expiration, all other 147
conditions and restrictions otherwise applicable to the license 148
and the license holder continue to apply during the extended 149
period of the license and at any other time. 150

(E) Notwithstanding any inconsistent provision of law, 151
including sections 5502.30 and 5502.35 of the Revised Code: 152

(1) A person, group, or entity adversely affected by any 153
manner of law, ordinance, rule, regulation, resolution, 154
practice, or other action enacted or enforced in violation of 155
this section may file an action for damages, injunctive relief, 156
declaratory relief, or other appropriate redress in the court of 157
common pleas of the county in which the aggrieved person resides 158
or the group or entity is located, or in which the violation 159
occurred. 160

(2) In an action brought under authority of division (E) 161
(1) of this section: 162

(a) A person, group, or entity adversely affected by any 163
manner of law, ordinance, rule, regulation, resolution, 164
practice, or other action enacted or enforced by any state 165
agency, any political subdivision, any elected or appointed 166
official or employee of the state or of a political subdivision, 167
or any agent of the state or of any political subdivision, 168
board, commission, bureau, or other public body established by 169
law in conflict with this section may bring a civil action 170
against the state agency, political subdivision, elected or 171
appointed official or employee of the state or of the political 172
subdivision, or agent of the state or of the political 173
subdivision, board, commission, bureau, or other public body 174
seeking damages, declaratory relief, injunctive relief, or a 175
combination of those remedies. Any damages awarded shall be 176
awarded against, and paid by, the state, the agency, the 177
political subdivision, or the board, commission, bureau, or 178
other public body. In addition to any actual damages awarded 179
against the state, the agency, the political subdivision, or the 180
board, commission, bureau, or other public body and any other 181
relief provided with respect to such an action, the court shall 182
award reasonable expenses to any person, group, or entity that 183
brings the action, to be paid by the state, agency, political 184
subdivision, or board, commission, bureau, or other public body, 185
if either of the following applies: 186

(i) The person, group, or entity prevails in a challenge 187
to the law, ordinance, rule, regulation, resolution, practice, 188
or action as being in conflict with this section. 189

(ii) The law, ordinance, rule, regulation, resolution, 190

practice, or action or the manner of its enforcement is repealed 191
or rescinded after the civil action was filed but prior to a 192
final court determination of the action. 193

(b) In addition to any other remedy available at law or in 194
equity, a person, group, or entity aggrieved by the seizure or 195
confiscation, in violation of this section, of one or more items 196
listed in division (C) (3) of this section may apply to the court 197
of common pleas of the county in which the item or items were 198
seized or confiscated for the immediate return of the item or 199
items. Except as otherwise provided in division (E) (2) (a) of 200
this section, upon receipt of the application and a 201
determination by the court that the seizure or confiscation of 202
the item or items was in violation of this section, the court 203
shall order the immediate return of the item or items by the 204
seizing or confiscating state agency, political subdivision, 205
board, commission, bureau, or other public body and that 206
entity's employed officials. If a court orders the return of the 207
seized or confiscated item or items under this division and the 208
item or items are not returned in accordance with the order, the 209
aggrieved party may claim reasonable costs and attorney fees for 210
the loss and, the cost of reclaiming the item or items, or the 211
cost of any damages to the item or items. 212

(F) The provisions contained in the amendments to section 213
3761.16 of the Revised Code and the enactment of this section by 214
_____ B. _____ of the 134th general assembly are severable, as 215
provided in section 1.50 of the Revised Code. In particular, it 216
is the intent of the general assembly that any invalidity or 217
potential invalidity of a provision contained in those 218
amendments or this section is not to impair the immediate and 219
continuing enforceability of the remaining provisions. 220

Section 2. That existing section 3761.16 of the Revised Code is hereby repealed. 221
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